THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.2488 OF 2006

Between:

A.Anjaneyulu son of Laxmaiah,M/s.Sharada ladies Emporium,Jagitial

….Petitioner

vs.

The Labour Officer, jagtial, Karimnagar District and two others

…Respondents

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WRIT PETITION NO.2488 OF 2006

ORAL ORDER

The 3rd respondent filed an application under Section 50 of the A.P. Shops and Establishments Act,1988(for short "the Act") before the 1st respondent alleging his

termination from the service by the writ petitioner from 14-11-2001 without just cause and reason and without giving an advance notice. The 1st respondent by the order dated 18-08-2004 in A.P.S.E.No.2 of 2002 considered the rival pleadings and evidence on record and rejected the petitioner's defence that the 3rd respondent herein was not an employee, recorded a finding of fact that on the basis of the evidence on record it is established that the 3rd respondent herein was an employee of the petitioner and accordingly declared the 3rd respondent entitled to the specific benefits which was directed to be deposited by the petitioner including towards service compensation.

Aggrieved thereby the petitioner preferred an appeal to the 2nd respondent. By the order dated 2-7-2005 the 2nd respondent meticulously went through the evidence on record and reaffirmed the factual conclusions recorded by the 1st respondent. The petitioner's defence to the 3rd respondent's claim was that he was not an employee and that his elder brother used to bring him to the shop and on account of that fact the 3rd respondent was merely permitted to check the accounts of the petitioner. Both the authorities concurrently came to the conclusion that the petitioner's defence had no basis and that no person would permit a stranger to maintain the business accounts of a firm-Sarada Ladies Emporium, Jagitial. On this substantive conclusion, the respondents 1 and 2 concurrently came to the conclusion that the 3rd respondent was entitled to relief. The 2nd respondent, however modified the award made by the 1st respondent and deleted the component of service compensation granted by the 1st respondent while confirming the other benefits, viz., namely notice wages, encashment of Earned Leave and difference of wages between the minimum wages payable and the wages actually paid. The 2nd respondent-appellate authority accordingly directed the writ petitioner to deposit an amount of Rs.20,561/- towards benefits determined under the award as against the 1st respondent-primary authority's determination of petitioner's liability at Rs.22,143/-.

This Court discerns no infirmity either the application of law or exercise of discretion by the primary and appellate authorities under the Act, warranting interference under Article 226 of the Constitution of India.

The writ petition is accordingly dismissed. No order as to costs.

GODA RAGHURAM,J

3rd MARCH 2006

*TSNR